

REMARKS

This paper is responsive to the Office Action dated October 3, 2005, having a shortened statutory period expiring on January 3, 2006.

Claims 1-6, 11-16, 20-23 and 31-37 are pending in the application.

Claims 1-6, 11-16, 20-23 and 31-37 were rejected.

The Rejections under 35 U.S.C. § 103(a)

Claims 1-6, 11-16, 20-23 and 31-37 stand rejected under § 103(a) as being unpatentable over U.S. Patent No. 5,666,265 issued to Lutz ("Lutz") in view of U.S. Patent No. 5,292,312 issued to Delk et al. ("Delk"). Applicants respectfully traverse.

Applicants have carefully reviewed the language of the above noted rejection and, among other things, have found that the rejection fails to address all limitations of the pending claims. Moreover, with respect to many of the claim limitations that were addressed in the Office Action, Applicants have been left to mere speculation as to the Office Action's intended applicability of the cited references to the claim limitations. Regardless of the vague and nebulous treatment of Applicants' claims in the Office Action, Applicants believe the following is a complete response to the rejections of the Office Action. Further, while not conceding that the cited references qualify as prior art, but instead to expedite prosecution, Applicants reserve the right, for example, in a continuing application, to establish that the cited references, or other references cited now or hereafter, do not qualify as prior art as to an invention embodiment previously, currently, or subsequently claimed.

As recited generally in independent claims 11, 23, and 34, claim 1 recites the following:

An apparatus comprising:

a rigid frame, wherein the rigid frame comprises at least one substantially planar surface;

a substrate having a first surface and a second surface substantially opposite the first surface, wherein the first surface of the substrate comprises a first plurality of fasteners of one of a plurality of hook and loop mechanisms and the second surface of the substrate is coupled to the substantially planar surface of the rigid frame; and

a cable fastener comprising a second plurality of fasteners of the one of the plurality of hook and loop mechanisms *that covers at least all of one side of the cable fastener*, wherein the second plurality of fasteners is configured to engage the first plurality of fasteners, the cable fastener is completely detachable from the substrate, and the *second plurality of fasteners is configured not to engage any portion of the cable fastener*,

wherein the cable fastener is further shaped to define:

a variable-width opening,

an elongated body having a predetermined width,

a head portion at one end of the body, the head portion having a width greater than the predetermined width *and having a size substantially similar to a size of the variable-width opening*,

the head defining an opening through which the elongated body of the cable fastener may pass.

(emphasis added)

In an attempt to demonstrate the claimed “cable fastener,” the Office Action refers to Lutz’s elongate strip 282. However, as stated at col. 8, lines 50-53 of Lutz, Lutz’s elongate strip 282 “provides a covering of female VELCRO 283 on one side and male VELCRO 284 on the other.” With this configuration, the elongate strip 282 may

engage another portion of the elongate strip 282 as illustrated by the elongate strip 282 of FIG. 7b of Lutz when the elongate strip 282 is wrapped about a bundle of power cords and cables 507. Thus, unlike Applicants' claims, the elongate strip 282 includes fasteners that are configured to engage another portion of the cable fastener.

Rather than being cited to overcome the above infirmity of Lutz, Delk is cited in an attempt to show a cable fastener "having a head having a width greater than the predetermined width and defining an opening" (October 3, 2005 Office Action, page 4). However, the cable fastener 30 of Delk includes multiple infirmities which cause Delk to be a poor candidate to even be combined with Lutz. For example, the cable fastener of Lutz requires two fastener types, while Delk teaches the use of a cable fastener including only one type of fastener material. Further, the cable fastener of Delk uses a much greater surface area than Lutz to attach cables to a substrate with the cable fastener. This leads to the problem of Delk's cable fastener not properly fitting the surface area disclosed in Lutz. For this reason alone, Delk would not be combined with Lutz.

In addition, Delk's smooth surface zones on the cable fastener 30 (see Delk Figs. 5 and 6) limit Delk's locking ability with respect to cables as compared to the cable fastener of Applicants' claims in which the length of the cable fastener could be used to lock cables because at least all of one side of the cable fastener of Applicants' claims is covered with one type of cable fastener material. Thus, cables from very small diameter cables to very large diameter cables (or groups of cables) can be accommodated by the claimed invention. By contrast, the smooth surface zones of Delk cause the size of Delk's cable opening to be restricted to the length of the smooth surface rather than to the size of cables being held by the cable fastener as in Applicants' claims. In addition, the

use of a single fastener type and the smooth surface zones of Delk would interfere with cable fastening if combined with the cable fastener of Lutz because the cable fastener of Lutz requires two types of fastener material to be compressed upon themselves to hold cables prior to pressing the cable fastener onto a substrate.

Further, the expanded surface of the head material of Delk's cable fastener causes the cable fastener of Delk to attach more securely than would be advisable in applications for which the reconfigurability of Applicants' invention is needed. In Applicants' invention, only the cable fastener body attaches to the substrate to any significant extent, i.e., the head surface area of Applicants' cable fastener is not used for securing the cable fastener to the substrate. The negligible head surface area of Applicants' cable fastener is more suitable than Delk to be quickly and easily removed for cable exchanging - especially if the cable fastener is used for holding fragile fiber optic cabling, which could break under the stress of removal if a configuration such as that in Delk is used.

Further, Applicants' elongate body of the cable fastener is desirable because it allows for different sizes of cables and/or groups of cables to be held in a convenient reconfigurable arrangement. Given that at least all of one side of the claimed cable fastener is covered with one type of fastener, the claimed invention is able to accommodate a wide variety of cable widths, as well as to hold such cables with the requisite security.

To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the

reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on Applicant's disclosure. In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991); MPEP 2142. The Applicants respectfully submit that the Examiner has failed to establish a prima facie case of obviousness.

Regarding a suggestion or motivation to combine Delk with Lutz, Applicants respectfully submit that no such suggestion for combining Delk with Lutz is presented in the Office Action. The Office Action simply states that “It would have been obvious ... to have modified Lutz to have substituted the cable fastener as taught by Delk since the cable fasteners are art recognized equivalents at the time” of the invention (see October 3, 2005 Office Action, page 4). Significantly, as stated above, the poor fit of Delk’s cable fastener with the substrate of Lutz would discourage one of ordinary skill in the art from looking to Delk to modify Lutz. In operation, Delk secures cables with the cable fastener only after pressing the cable fastener onto a surface, while Lutz, on the other hand, first secures cables to one another and with the cable fastener prior to pressing the cable fastener configuration onto a substrate. In view of the mutually exclusive cable fastener operations of Delk and Lutz, one of ordinary skill in the art would not look from Lutz to Delk to modify the cable fastener of the Lutz reference. Thus, Applicants respectfully submit that the only suggestion provided for such a combination would be Applicants’ disclosure, which would be improper hindsight.

In view of Delk’s failure to teach or disclose Applicants’ cable fastener, there

cannot be a reasonable expectation of success for combining Delk with Lutz to produce a cable fastener having at least all of one side of the cable fastener being covered with one type of fastener material as required by Applicants' claim 1. One cannot expect success from combining the multi-fastener material cable fastener of Lutz with the single, spaced fastener material of Delk's cable fastener. Not only would the combination fail to successfully show Applicants' claimed invention, but neither of these two types of cable fasteners would operate correctly with the other system. While Delk teaches a single type of fastener material, Lutz requires two types of fastener material to hold cables. Delk has only one kind of fastener material but uses a head with an opening while Lutz holds cables by using a cable fastener strap with two kinds of fastener material to allow the strap to stick to itself. Thus, one could not have a reasonable expectation of successfully producing the claimed invention by making such a combination.

Further, Delk and Lutz would not be combined because they use two different methods to hold cables. Delk's cable fastener includes a head with an opening in which the other end of the cable fastener passes through to form a cable opening. The cable fastener is pressed against a base plate to secure both the cable fastener and the cables. Lutz's cable fastener is a strap without an opening and, unlike Delk, is a strap with two types of fastener material which wraps upon itself to hold cables.

As demonstrated above, the claimed limitations of independent claim 1 are not taught, disclosed, or otherwise suggested in the cited portions of Lutz, Delk, or the combination thereof. Thus, the cited references would not be combined in an attempt to support a 103 rejection of Applicants' claims because their combination would fail to teach the claimed invention and a prima facie case of obviousness has not been

established in the Office Action.

For at least these reasons, Applicants urge the Examiner to withdraw the 35 U.S.C. § 103(a) rejections of independent claims 1, 11, 23, and 34. Thus, Applicants believe that independent claims 1, 11, 23, and 34 are allowable. As dependent claims 2-6, 12-16, 20-22, 31-33, and 35-37 add limitations to their otherwise allowable base claims, Applicants respectfully request the Examiner to withdraw the 35 U.S.C. § 103(a) rejections to these claims.

CONCLUSION

Applicant submits that all claims are now in condition for allowance, and an early notice to that effect is earnestly solicited. Nonetheless, should any issues remain that might be subject to resolution through a telephonic interview, the Examiner is requested to telephone the undersigned.

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P. O. Box 1450, Alexandria, Virginia, 22313-1450, on January 3, 2006.



Attorney for Applicant

1/3/06

Date of Signature

Respectfully submitted,



Russell C. Scott Attorney for
Applicant Reg. No. 43,103
Telephone: (512) 439-5089
Facsimile: (512) 439-5099